IN THE HIGH COURT OF PUNJAB & HARYANA CHANDIGARH

Criminal Revision No.1216 OF 2004
Date of Decision: November 21, 2007

DAVINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE A.N.JINDAL

Present: Mr. V.K.Kataria, Advocate,
for the petitioner.

Mr. Satish Bhanot, Sr. DAG, Punjab.

A.N.JINDAL, J

Assailed in this petition is the Order dated 27.02.2004 framing the charge under Section 21 of the NDPS Act (hereinafter referred to as the 'Act') for keeping in possession following narcotics:

1. Monotil 2000 tablets
2. Corex 4 bottles(100 ml. Each)
3. Dexavon 90 capsules
4. Alperzolam 140 tablets

The said articles were got analysed from the Chemical Examiner who reported the said drugs contained ingredients which have been declared as “manufactured

drugs" following within the purview of Section 21 of the NDPS Act.

Consequently, the accused were challaned and charged for the aforesaid offence. The main stake of arguments advanced by the counsel for the petitioner is that even if it is proved that accused was carrying in possession the narcotics without any licence then the same does not fall within the purview of the "psychotropic substances".

As a matter of fact the parameters at the time of framing charge are that the same could be framed if the court is of the opinion, after examining the report under Section 173 and the documents placed on the record, that a prima facie case exists to proceed against him. The court at the stage of framing of charge need not delve deep into the merits. Mere suspicion is sufficient to frame the charge.

The recovery of the psychotropic substance as referred above in the present case was not affected from any chemist shop but from outside the premises and the petitioner who was also not a drug licencee. Thus the petitioner cannot be said to have committed no offence. The petitioner may take any such defence at an appropriate stage that he was a partner in a chemist shop or that the drugs were not recovered from outside the premises. The Special Judge, Fatehgarh Sahib has passed a detailed order meeting with all the contentions raised by the counsel for the petitioner elaborately.

Thus while sitting in revision over the

aforesaid order it could be observed that the order smells no such illegality warranting interference of this court.

Consequently, the petition is dismissed with liberty to the petitioner to take all such pleas in defence at the appropriate stage.

(A.N.JINDAL)
JUDGE

November 21, 2007
Ruchika

To be referred to reporter: Yes/No